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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,655	12/06/2001	Nainesh P. Shah	T148	7784

7590 04/04/2005

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EXAMINER	
ST CYR, DANIEL	

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

N.D

Office Action Summary	Application No.	Applicant(s)	
	10/017,655	SHAH, NAINESH P.	
	Examiner	Art Unit	
	Daniel St.Cyr	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 12-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 12-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. In view of the appeal filed on 1/20/05, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al, US Patent No. 5,672,858, in view of Landt, US Patent No. 6,677,852.

Li et al disclose an apparatus and method for reading hybrid indicia using charge coupled device for reading 2d portions of the indicia and a laser device for reading 1d portions of the indicia comprising: a photodetector 409 for detecting the reflection of light 440 from the scanning light beam 430 off the UPC symbol 411; a CCD 404 separately images the reflected

light 440 from the UPS code symbol 413; a processor 420, includes a conventional decoder 420a and symbol discriminator 420b, the discriminator 420b determines if the symbol 413 being read by the CCD is of a particular symbology type, e.g. a matrix code conforming to UPSCODE(TM) symbology; a processor 424, including a conventional decoder 424a and symbol discriminator 424b, is provided to determine if the symbol 411 being read by the photodiode 409 is of a particular symbology type, e.g. a bar code conforming to a UPC code symbology. (see figure 4B and col. 13, line 17+).

Li et al teach in the background that if the code is successfully and completely decoded (read) the decoding process terminates and an indicator of a successful read (such as green light or audible sound) (see col. 4, lines 3-14), but fail to disclose or fairly suggest that the indication means of the reader multicolor LEDs (i.e. photo, illumination, lights) or vibration signal for indicating a valid read.

Landt discloses a system and method for automatically controlling or configuring a reader comprising: a reader 100 having a trigger switch 306 and an indicator 308, both coupled to a processor 304. the indicator 308 may be a buzzer, speaker, or other simple audible output device, or one or more light emitting elements, such as multicolor LEDs (see col. 6, lines 24-40).

In view of Landt's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate the well-known multicolor light emitting diodes (LEDs) indicating means for indicating to an operator whether each portion of the hybrid code has been successfully read or (i.e. using color changing scheme). Such modification would make the system more effective and more practical by providing visual indicating means for validating each scan of the system so that the operator could appropriately

proceed with further scanning. With regard to the using vibrating indicating means, they are functionally equivalent as the LEDS/audible means. Furthermore, with regard programming the indicators for specific duration, time sequence, etc., the structure of the prior art is capable of being programmed to perform the same function. Therefore, it would have been an obvious extension as taught by Li et al.

Response to Arguments

4. Applicant's arguments with respect to claims 1-10 and 12-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr

3/28/05